

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ETHAN PUGH,

Plaintiff,

v.

CIVIL NO. 2:23-CV-11
(KLEEH)

MICHAEL SEAN COLEMAN,
APRIL RILEY,
STEVEN GRAHAM, and
PAT RYAN,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 32] AND
GRANTING MOTION FOR DEFAULT [ECF NO. 16]

On September 18, 2023, Plaintiff Ethan Pugh ("Plaintiff") filed a Complaint against Defendants Michael Sean Coleman, April Riley, Steven Graham, and Pat Ryan. Plaintiff proceeded to file a motion for default judgment with respect to Defendant Coleman. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the motion to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge"). On April 16, 2024, the Magistrate Judge entered a Report and Recommendation ("R&R") construing the motion as a motion for default (as opposed to default judgment) and recommending that the Court grant it.

The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and

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Recommendation to which objection is made, and the basis for such objection.” It further warned them that the “[f]ailure to timely file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals.” Defendant Coleman accepted service of the R&R on April 19, 2024. To date, no objections have been filed.

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, “the Court may adopt, without explanation, any of the magistrate judge’s recommendations” to which there are no objections. Dellarciro v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 32]. The motion for default judgment, which is construed as a motion for default [ECF No. 16], is **GRANTED**. The Clerk is **DIRECTED** to enter default

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with respect to Defendant Coleman.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and any unrepresented parties.

DATED: May 10, 2024

A handwritten signature in black ink, appearing to read "Tom S. Klee".

THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA